

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

CHARLES C. NEAL; MOLOKINI  
DIVERS, INC.; and NEALCO  
INTERNATIONAL, LLC dba SCUBA  
SHACK,

Plaintiffs,

vs.

CAROL CHRISTINI; INSURANCE  
MANAGEMENT SERVICES, INC.;  
PATRICK KUDLICH; OCEAN  
MARINE INSURANCE AGENCY,  
INC.,

Defendants.

CIVIL NO. 16-00242 DKW-RLP

**ORDER DISMISSING CASE**

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On May 19, 2016, Plaintiffs Charles C. Neal, Molokini Divers, Inc., and NEALCO International, LLC filed a complaint against several defendants, including Defendant Carol Christini, alleging that Defendants were negligent when they sold insurance policies to Plaintiffs that were not MEL insurance policies and/or insurance policies that would provide full coverage for injuries to employees and customers. On October 11, 2016, the Court granted Christini's Motion to Dismiss for Lack of Subject Matter Jurisdiction (Dkt. No. 37), but also

permitted Plaintiffs leave to file an amended complaint by November 1, 2016.

Dkt. No. 37 at 1. As of the date of this order, Plaintiffs have not filed an amended complaint.<sup>1</sup>

Having considered the relevant factors, the Court concludes that dismissal of this case without prejudice is appropriate. *See Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002) (Factors include: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to defendants/respondents; (4) the availability of less drastic alternatives; and (5) the public policy favoring disposition of cases on their merits.”). Here, dismissal is proper given Plaintiffs’ failure to file an amended complaint in compliance with a previous court order and election to file a new action in state court.

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<sup>1</sup>Rather than filing an amended complaint in this Court, it appears that Plaintiffs elected to file a complaint in the Circuit Court of the Second Circuit, State of Hawaii on October 26, 2016. *See Charles Neal, et al. v. Carol Christini, et al.*, 2CC16-1-000555 (available at <http://hoohiki.courts.hawaii.gov/#/case?caseId=2CC161000555>).

Accordingly, this case is hereby DISMISSED. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

DATED: November 7, 2016 at Honolulu, Hawai'i.



  
Derrick K. Watson  
United States District Judge

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